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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 UNITED STATES OF AMERICA,
8
9 Plaintiff,

10 ROBERT BAY JOHNSON,
11 Defendant.

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) Case No: 3:20-cr-00007-LRH-WGC
)

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

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14)
15 The Court having considered the Stipulation between the Plaintiff, United States of
16 America, by and through MEGAN RACHOW, United States Attorney and Defendant, Damian
17 R. Sheets, Esq., counsel for Defendant, ROBERT BAY JOHNSON, and makes the following
18 findings of fact and conclusions of law and enters the following order:

19 **FINDINGS OF FACT**

20 Counsel for the Government was advised by Damian R. Sheets, Esq., counsel for
21 Defendant, ROBERT BAY JOHNSON, that Defense Counsel needs further time to review
22 discovery and prepare for trial.

- 23 1. As part of the investigation in this case, Defense Counsel is in the process of reviewing
24 discovery. After examining such, it is possible that there may be a need to file pre-trial
25 motions or supplements to existing motions.
- 26 2. Due to the Covid-19 pandemic and the associated Governor's orders, which include an
27 order to "Stay Home for Nevada", Counsel has been delayed in the investigation of this
28 matter.

- 1 3. Defense Counsel will not have sufficient and adequate time to effectively and thoroughly
- 2 prepare for trial and present an appropriate defense in the above-captioned matter on the
- 3 date currently set for trial.
- 4 4. Counsel for the Government has been advised by Defense Counsel that, after conferring
- 5 with his client, they may want to file pre-trial motions and will need an extension of time
- 6 beyond the currently scheduled motion cutoff date.
- 7 5. Denial of this request for continuance would deny Defense Counsel sufficient time, on
- 8 the date currently set for trial, taking into account the exercise of due diligence.
- 9 6. Furthermore, denial of this request for continuance could result in a miscarriage of
- 10 justice.
- 11 7. Defendant is currently in custody and is not opposed to the continuance.
- 12 8. Defense counsel is requesting a Jury Trial date of January 25, 2021 at 8:30am and a
- 13 Calendar Call of January 14, 2021 at 1:30pm.
- 14 9. This is the second request for a continuance.

15 For all of the above stated reasons, the ends of justice would best be served by a
16 continuance of the trial date herein.

17 **CONCLUSIONS OF LAW**

18 The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United
19 States Code, Section 3161(h) and Title 18, United States Code, Section 3161(h)(7)(A), when
20 considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and
21 3161(h)(7)(B)(iv).

22 The ends of justice served by granting said continuance outweigh the best interest of the
23 public and defendant in a speedy trial, since the failure to grant said continuance would be likely
24 to result in a miscarriage of justice, would deny defense counsels sufficient time within which to
25 be able to effectively and thoroughly research and prepare for trial and to submit for filing any
26 appropriate motions, taking into account the exercise of due diligence.

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ORDER

Based on the pending Stipulation of the parties and good cause appearing therefore,
IT IS THEREFORE ORDERED that the trial in this matter currently scheduled be vacated and continued to January 25, 2021 at the hour of 8:30 a.m.

IT IS FURTHER ORDERED that the calendar call currently scheduled for be vacated and continued to January 14, 2021 at the hour of 1:30 p.m.

IT IS FURTHER ORDERED that the parties herein shall have to and including Friday, December 11, 2020, by the hour of 4:00 p.m., within which to file any and all pretrial motions and notices of defense.

IT IS FURTHER ORDERED that the parties shall have to and including Monday, December 28, 2020 , by the hour of 4:00 p.m., within which to file any and all responsive pleadings; and

IT IS FURTHER ORDERED that the parties shall have to and including Monday, January 4, 2021, by the hour of 4:00 p.m., within which to file any and all replies to dispositive motions.

DATED this 10th day of September, 2020.



Larry R. Hicks, United States District Judge